



State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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January 8, 2002

CERTIFIED RETURN RECEIPT  
7099 3400 0016 8896 4271

Tony J. Rudman, General Counsel  
Magnesium Corporation of America  
238 North 2200 West  
Salt Lake City, Utah 84116-2921

Re: Denial of 60-day Timeframe Extension, and Transmittal of Notice of Agency Action - Request for Board Order, Magnesium Corporation of America (Magcorp), Knolls Solar Pond Project, M/045/022, Tooele County, Utah

Dear Mr. Rudman:

The Division is in receipt of your December 4, 2001, letter which requests an additional 60 days to continue discussions and negotiations concerning the Division's second request for an increase in reclamation surety for the Knolls Solar Pond Project. This letter notifies you of our decision to deny the time extension request and to transmit a formal copy of the Division's Notice of Agency Action which will be filed with the Board of Oil, Gas and Mining for its hearing scheduled for February 27, 2002.

BACKGROUND

By certified letter dated January 25, 2001, the Division formally notified Magcorp that the reclamation plan and bond amount for the Knolls Solar Pond Project was outdated and needed to be revised. A detailed reclamation surety bond estimate was enclosed. This estimate was prepared by the BLM at the request of the Division because the BLM is the major surface owner of the mine project area. Magcorp was asked to provide the Division with the following:

1. A \$6,051,640.00 reclamation surety within 90 days of receipt.
2. A replacement Reclamation Contract to accompany the revised form of surety.
3. Appropriate updates and revisions to the mining and reclamation plan to coincide with the revised reclamation cost estimate.

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On February 7, 2001, Magcorp representatives met with Division staff to discuss their preliminary objections and concerns regarding the latest reclamation surety estimate. Magcorp proposed some itemized alternative reclamation costs, but did not commit to posting any additional bond amount at that time. An additional 90-days from the meeting to prepare a formal response to the Division's January 25<sup>th</sup> letter (until May 9, 2001) was requested by Magcorp and granted by the Division at the conclusion of the meeting.

On May 11, 2001, the Division received a written response from Magcorp to the January 25<sup>th</sup> request. Magcorp registered its strong objection to any increase in the current reclamation surety amount and registered concerns about portions of the \$6 million surety estimate.

On July 9, 2001, Division staff met with Magcorp representatives to discuss and present a revised \$4,039,100 Division surety bond estimate. The new estimate eliminated some administrative overhead costs that the Division believed could be factored out of the \$6 million estimate. During the meeting, Tony Rudman, General Counsel for Magcorp, requested specific information regarding case law and the statutory/regulatory authority which allows the Division to change the reclamation requirements of the approved reclamation plan and surety amount. On July 13, 2001, the Division sent a follow up letter with documented meeting minutes to Magcorp and a response deadline of July 25, 2001.

On July 25, 2001, Magcorp provided a formal response to the Division's July 13, 2001 letter. Magcorp objected to and requested confirmation of the legal authority giving the State the right to increase the amount of surety bond. Magcorp also requested the Division perform an independent line by line review of the \$6 million cost estimate and compare it against Magcorp's technical evaluation of same.

On September 13, 2001, Kurt Seel, Assistant Attorney General, provided a written response to Magcorp's July 25, 2001 letter, citing the reasons why the Division was authorized to periodically evaluate the approved plan and reclamation cost estimate and to require changes to both if deemed appropriate, given changes in on-the-ground conditions.

On November 8, 2001, the Division sent a second request to Magcorp directing the operator to post an increase in the reclamation surety. The letter contained a new \$2,147,000 reclamation cost estimate prepared by Division staff. Magcorp was directed to post the replacement surety within 30 days of receipt or file a formal appeal to the Division Director or Board of Oil, Gas and Mining within that timeframe.

On December 4, 2001, Magcorp hand delivered a response to the Division's November 8, 2001, surety bond request. Magcorp requested a 60-day time extension to continue to discuss the

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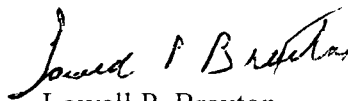
surety bond and reclamation plan changes with the Division, the BLM and Magcorp's bankruptcy counsel.

**Decision**

The Division hereby denies Magcorp's request for another 60-day timeframe to continue discussion and negotiations in this matter. Your failure to comply with the Division's repeated requests have caused DOGM to file a Notice of Agency Action requesting an Order from the Board of Oil, Gas and Mining as described in the enclosed Notice.

The Division's request for a Board Order will be presented formally at the February 27, 2002, Board Hearing. On that date, Magcorp and its counsel should come prepared to explain why Magcorp has failed to satisfy the permitting requirements and Division directives as they pertain to this mine site. If you have any questions regarding the formal hearing process, please contact Vicki Bailey, Secretary to the Board of Oil, Gas and Mining at (801) 538-5327.

Sincerely,



Lowell P. Braxton  
Director

jb  
Enclosure: Notice of Agency Action  
cc: Lee Brown, Magcorp  
Jim Kohler, BLM State Office  
Glen Carpenter, BLM Salt Lake FO  
John Maycock, Attorney General Office  
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